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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

TERRY HARDAGE,

Plaintiff,

Civil No. 10-6369-HO

v.

ORDER

STATE OF OREGON, et al.,

Respondent(s).

HOGAN, District Judge.

Plaintiff's Motion to File First Amended Petition (#7) is allowed. The attached "Exhibit A" will be construed as the operative pleading before the court. However, the newly named defendants will not be required to answer or otherwise respond until after the court has ruled on defendants' Motion to Dismiss (#16).

Plaintiff's Motion for Preliminary Injunction (#8), (#11), (#12), (#13) (#20) and (#22) are denied in that the preliminary equitable relief that plaintiff seeks would in essence constitute a judgment on the merits of plaintiff's underlying claim and is therefor inappropriate. See,

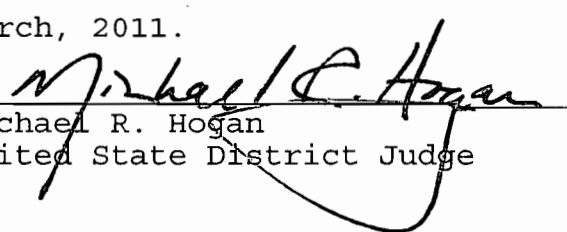
University of Texas v. Camenisch, 451 U.S. 391, 395 (1981); Tanner Motor Livery, Ltd. V. Avis, Inc., 316 F.2d 804, 808 (9th Cir. 1983). See also, Regents of University of California v. ABC, Inc., 747 F.2d 511, 514 (9th Cir. 1984) ("\* \* \* the function of a preliminary injunction is to preserve the *status quo ad litem*." ) Wright and Miller, Federal Practice and Procedure § 2947 (1973) ("\* \* \* the most compelling reason in favor of entering a Rule 65(a) order is the need to prevent the judicial process from being rendered futile by defendant's actions or refusal to act").

Moreover, plaintiff's requested preliminary relief involves federal intervention in ongoing state custody proceedings and as such is barred by the Younger abstention doctrine. See, H.C. ex rel. Gordon v. Koppel, 203 F.3d 610 (9<sup>th</sup> Cir. 2000).

Plaintiff's Motion for Extension of time (#23) is allowed. Plaintiff's response to defendants' Motion to Dismiss (#16) is due 30 days from the date of this order. The clerk is requested to set defendants' motion (#16) on the court's calendar after the expiration of 30 days.

IT IS SO ORDERED

DATED this 9<sup>th</sup> day of March, 2011.

  
 Michael R. Hogan  
 United State District Judge